IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2768 OF 2005

The New India Assurance Co.Ltd. .. Petitioner

Vs.

Sitaram B Malane and Ors. ..Respondents

Ms.Arati Barve for the petitioner

CORAM : S.U.KAMDAR, J
DATED : 19TH DECEMBER, 2005

P.C.:

. The present petition is filed challenging the order dt.3.8.04 passed by the Motor Accident Claims Tribunal. The application is for compensation under section 140 of the Motor Vehicle Act on account of substantial injuries sustained in Motor Vehicle Accident. The learned counsel for the petitioner states that since he was himself driving third party insurance claim cannot be granted and therefore he should apply u.s.166 of the Motor Vehicle Act. After perusing the judgement I am of the opinion that this is not a fit case where applicant should be sent to the different proceedings. In any event the amount

awarded by the trial court is for no fault liability. The learned Trial Court has rejected the contention of the insurance claim on the ground that the applicant is himself not the owner of the vehicle and inspite of the aforesaid trial court has kept the entire issue open to be decided u.s.166 of the Motor Vehicle Act. In view of the fact that the issue is still open to be determined under section 166 of the M.V.Act I do not find it appropriate to interfere in writ jurisdiction. Petition accordingly fails and dismissed. No order as to costs.